

**Final Supplemental Environmental Impact Statement for
the Beaverhead-Deerlodge National Forest Land and
Resource Management Plan to Comply with the
District of Montana Court Order**

**Determination
and
Affirmation of Prior Decision**

**Beaverhead-Deerlodge National Forest
Beaverhead and Jefferson Counties, Montana**

November, 2012

Lead Agency:	USDA Forest Service, Northern Region
Responsible Official:	Faye L. Krueger Regional Forester
For Further Information Contact:	Peri Suenram Beaverhead-Deerlodge National Forest 420 Barrett Street Dillon, MT 59725 (406) 683-3900

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

DETERMINATION

November 14, 2012

Subject: Determination Whether a New or Modified Record of Decision is needed for the Beaverhead Deerlodge Land and Resource Management Plan based on Application of Minimization Criteria to specific designated snowmobile routes.

Background: In an order dated April 2, 2012, the U.S. District Court for the District of Montana found the Forest Service had adequately applied the minimization criteria of EO 11644 for areas generally open to snowmobile use. However, the court found “to the extent that specific routes have been designated for snowmobile use”, the Forest Service failed to show it adequately applied the minimization criteria at the route-specific level. The court ordered as follows: “that this case is remanded to the Forest Service for the limited purpose of applying the minimization criteria mandated by EO 11644 at the route specific level where specific snowmobile routes are designated. The Forest Service shall perform this analysis and update the Revised Forest Plan by September 30, 2012¹.”

The Beaverhead-Deerlodge National Forest prepared a Draft Supplemental Environmental Impact Statement (hereinafter DSEIS) and a Final Supplemental Environmental Impact Statement (FSEIS) to the 2009 Revised Forest Plan Corrected FEIS to respond to the court order for the three routes designated for snowmobile use in the Revised Forest Plan. The DSEIS was made available for a 45 day public review and comment period with a Notice of Availability in the Federal Register pages 42727 and 42728 on July 20, 2012. A legal notice was also published on July 20, 2012, in the Montana Standard. A letter informing recipients the DSEIS was available on the BDNF web page for review and was mailed to over 650 interested parties. The comment period ended September 4, 2012.

The Beaverhead-Deerlodge National Forest received correspondence from 6 individuals, organizations, and other agencies in response to the DSEIS (AR² FSEIS-21 through FSEIS-29). Each comment contained in the 6 letters received a response in the FSEIS (AR FSEIS-4:Appendix C). The FSEIS includes effects analysis for the three designated snowmobile routes in the 2009 Revised Forest Plan.

2009 Revised Forest Plan: In a Record of Decision (ROD) dated January 14, 2009, then Regional Forester Thomas Tidwell, approved the 2009 Revised Forest Plan for the Beaverhead-Deerlodge National Forest (BDNF). The 2009 Revised Forest Plan provides management direction on the BDNF for the next 10-15 years. This direction replaced previous management direction in the 1986 Beaverhead National Forest Plan and the 1987 Deerlodge National Forest Plan. As part of addressing the recreation and travel management revision topic, the Revised Forest Plan prescribed motorized and non-motorized allocations for large blocks of land. The

¹ This date was extended to November 16, 2012 by order of the court.

² This determination frequently references supporting documents in the administrative record (AR). In this document, “AR” followed by “FSEIS-” and a number refers to a specific supporting document(s) available in the Administrative Record prepared for the FSEIS.

2009 ROD disclosed decision rationale to allocate 40% of the nearly 3.4 million acre forest to winter non-motorized recreation. This decision decreased winter motorized recreation opportunities on nearly one quarter of the national forest (24%). This decision did not open any lands previously closed under the prior Forest Plans of 1986/7.

The 2009 Revised Forest Plan made broad, strategic decisions that identify goals, objectives, standards, and suitable uses for large areas of land. In making these, the Revised Forest Plan decisions incorporated considerations about physical and biological landscape characteristics, needs for resource management access, access to private lands and minerals, access for permitted uses such as grazing, and public access for recreation use (2009 ROD, page 14). The Revised Forest Plan complied with forest planning regulations (1982) 36 CFR 219.12(g), which state, “Off-road vehicle use shall be planned and implemented to protect land and other resources, promote public safety, and minimize conflicts with other uses of the National Forest System lands. Forest planning shall evaluate the potential effects of vehicle use off roads and, on the basis of the requirements of 36 CFR part 295 of this chapter, classify areas and trails of National Forest System lands as to whether or not off-road vehicle use may be permitted.” Relative to winter off-road vehicle (snowmobile) use, the Revised Forest Plan allowed for winter non-motorized allocation exceptions on three routes (one trail and 2 roads) in three separate management areas (AR FSEIS-4:3³)

As disclosed on page 15 of the 2009 Revised Forest Plan Record of Decision, “Decisions about the type and location of public recreation access are among the most difficult for land managers because of the delicate balance between competing public values and natural resource protection.” Recreation and travel management were the subjects of broad public debate throughout the plan revision process which spanned over 8 years and 45,000 comments. The extensive record associated with the Revised Forest Plan, shows the focus on minimizing environmental effects in order to promote public safety and minimize conflicts with other uses of National Forest System lands.

Motorized and non-motorized allocations in the Revised Forest Plan reduced resource conflicts by applying the minimization criteria. The decision allocates an additional 24% of the Forest to winter non-motorized recreation (resulting in a 40% winter non-motorized allocation compared to the 16% allocation in the prior Plans). In other words, this decision resulted in additional motorized closures across the Forest in order to minimize resource conflicts and impacts. No routes or areas closed to snowmobile use under the prior plans were “opened” with this revision. The decision also resulted in more acres allocated for quiet, non-motorized winter uses.

NFMA and Executive Order 11644 (as amended): This determination and supporting FSEIS concern the 2009 Revised Forest Plan for the Beaverhead Deerlodge National Forest. The National Forest Management Act (1976) requires the management plans to be developed and integrated at the Forest scale (16 USC 1604(b)). Plans are to “provide for multiple use and sustained yield of the products and services obtained therefrom in accordance with the Multiple-Use Sustained-Yield Act of 1960 [16 U.S.C. 528–531], and, in particular, include coordination of outdoor recreation, range, timber, watershed, wildlife and fish, and wilderness” (16 USC 1604(e)(1)). Implementation of these plans is to be monitored, and the plans are to be amended or revised as needed (16 USC 1604(4) and (5)). Prior to revision, the Beaverhead Deerlodge

³ When an AR FSEIS document number is followed by a colon and another number, the second number refers to a specific page within the AR document.

National Forest had been managed under the direction of the Beaverhead Forest Plan and the Deerlodge Forest Plan (as amended), established in 1986 and 1987, respectively.

This determination and supporting FSEIS analyze effects and apply the minimization criteria prescribed in Executive Order 11644 as amended (1972, 1977). That Executive Order established “policies and provide for procedures that will ensure that the use of off-road vehicles on public lands will be controlled and directed so as to protect the resources of those lands, to promote the safety of all users of those lands, and to minimize conflicts among the various uses of those lands” (Section 1). The Executive Order directs agencies to designate the “specific areas and trails on public lands on which the use of off-road vehicles may be permitted, and areas in which the use of off-road vehicles may not be permitted” (Section 3). Section 3(a) further specifies that regulations shall be in accordance with the following:

- Areas and trails shall be located to minimize damage to soil, watershed, vegetation, or other resources of the public lands.
- Areas and trails shall be located to minimize harassment of wildlife or significant disruption of wildlife habitats.
- Areas and trails shall be located to minimize conflicts between off-road vehicle use and other existing or proposed recreational uses of the same or neighboring public lands, and to ensure the compatibility of such uses with existing conditions in populated areas, taking into account noise and other factors.
- Areas and trails shall not be located in officially designated Wilderness Areas or Primitive Areas. Areas and trails shall be located in areas of the National Park system, Natural Areas, or National Wildlife Refuges and Game Ranges only if the respective agency head determines off-road vehicle use in such locations will not adversely affect their natural, aesthetic, or scenic values.

These requirements were integrated into the NFMA implementing regulations at 219.21(g) [1982]. As such, the prior 1986 and 1987 Beaverhead and Deerlodge Forest Plans also considered off road vehicle use. Those plans allocated 16% of the Forest to winter non-motorized use and 84% of the Forest to winter motorized use.

Once designations are established, Executive Order 11644 as amended, directs that agencies “shall monitor the effects of the use of off-road vehicles on lands under their jurisdictions. On the basis of the information gathered, they shall from time to time amend or rescind designation of areas or other actions taken pursuant to this order as necessary to further the policy [Section 1] of this order” (Section 8). The 2009 Revised Forest Plan, based on over twenty years’ experience and monitoring, and eight years of public involvement, rescinded winter motorized designations on an additional 24% of the Forest. No areas or trails closed to snowmobiles under the prior plans were “opened” with the revision.

Determination: In response to the court order, and based on analysis in the FSEIS and public comment, and applying the minimization criteria to the three routes designated for snowmobile use in the 2009 Revised Forest Plan, I find no new decision for the 2009 Revised Forest Plan is needed. The three snowmobile roads/trails are appropriately managed as limited exceptions to winter non-motorized allocations as described in the 2009 Forest Plan.

I have reviewed the Supplemental EIS prepared for the Beaverhead-Deerlodge National Forest Land and Resource Management Plan to Comply with the District of Montana Court Order. I have also reviewed the 2009 Corrected Final EIS and two Records of Decision associated with the Beaverhead-Deerlodge Forest Plan revision effort. These prior decisions:

- Closed the areas these three routes are located in to winter motorized use, and
- Allowed an exception to the area winter motorized closure for snowmobiles to use the three Forest Service system roads and trail from December 2nd to May 15th.

As disclosed in the Supplemental EIS and Forest Plan, this use has been occurring for years under the no action alternative.

I considered the effects of this use and find we have met the objectives of protecting resources of the public lands, promoting safety of all users of those lands, and minimizing conflicts among the various uses of those lands. I considered the effects, applying the minimization criteria, and find the allocation meets the requirements of EO 11644⁴. Following is a route by route summary of the analysis disclosed in the FSEIS:

Electric Peak (Trail 7065)

1. The Revised Forest Plan FEIS finds impacts from snowmobile use on the BDNF to soil and vegetation are benign since these resources are buffered by snow during winter snowmobile use and the tracks vanish with snow melt (corrected FEIS, pg. 289). This is an existing trail that is devoid of vegetation and is appropriately maintained which minimizes damage to soil, water, and other resources. Snowmobile use of the Electric Peak route also occurs when soil and vegetation are buffered by snow. There is no evidence snowmobile use has damaged soil or vegetation on, or along, this route. (AR FSEIS-4:6 and FSEIS-81)
2. This route is not located in big game winter range or in an area where mountain goats are likely to habituate. As disclosed in the FSEIS, there are no anticipated impacts to other species or their habitats (AR FSEIS-4:-8-11). The Forest Plan decision closed 5,900 acres to winter motorized recreation in the Electric Peak Management Area and reduced snowmobile opportunities by 57,000 acres (from the no action alternative) in the Boulder River Landscape. (AR FSEIS-4:8)
3. The 2009 Forest Plan decision minimized conflicts between off-road vehicle use and other recreational uses by confining traffic to this route. There are no known conflicts, accidents, or injuries associated with winter use on Trail #7065. (AR FSEIS-4:11)
4. This trail is not located in an officially designated Wilderness Area or primitive area.

Antelope Basin (Road 056)

1. The Revised Forest Plan FEIS finds impacts from snowmobile use on the BDNF to soil and vegetation are benign since these resources are buffered by snow during winter

⁴ Both the Antelope Basin and Antone Cabin routes (discussed below) are roads. Executive Order 11644 does not pertain to motor vehicle use on roads. However, for the purposes of this determination I apply the minimization criteria to these routes

snowmobile use and the tracks vanish with snow melt (corrected FEIS, pg. 289). This is an existing road that is devoid of vegetation and is appropriately maintained which minimizes damage to soil, water, and other resources. Snowmobile use along the Road #056 corridor also occurs when soil and vegetation are buffered by snow. In addition, the route is a system road open to highway vehicles all year (although it becomes impassable due to snow during the winter). There is no evidence snowmobile use has damaged soil or vegetation on, or along, this route. (AR FSEIS-4:16 and FSEIS-82).

2. This route is not located in big game winter range or in an area where mountain goats are likely to habituate. As disclosed in the FSEIS, there are no anticipated impacts to other species or their habitats (AR FSEIS-4:17-20). Snowmobile use along this road corridor in the Antelope Basin Management Area is in the Gravelly landscape where winter motorized allocations were reduced by over 143,000 acres in the 2009 Forest Plan decision (AR FSEIS-4:17).
3. The 2009 Forest Plan decision minimized conflicts between off-road vehicle use and other recreational uses by confining traffic to this route. There are no known conflicts, accidents, or injuries associated with winter use on Road #056. (AR FSEIS-4:20).
4. This road is not located in an officially designated Wilderness Area or primitive area.

Antone Cabin (Road 325)

1. The Revised Forest Plan FEIS finds impacts from snowmobile use on the BDNF to soil and vegetation are benign since these resources are buffered by snow during winter snowmobile use and the tracks vanish with snow melt (Revised Forest Plan FEIS, pg. 289). This is an existing road that is devoid of vegetation and is appropriately maintained which minimizes damage to soil, water, and other resources. Snowmobile use on the road to Antone Cabin also occurs when soil and vegetation are buffered by snow. In addition, the route is a system road open to highway vehicles July 1 through March 31 (although it becomes impassable due to snow during the winter). There is no evidence snowmobile use has damaged soil or vegetation on, or along, this route. (AR FSEIS-4:24 and FSEIS-82).
2. This route is not located in big game winter. As disclosed in the FSEIS, there are no anticipated impacts to other species or their habitats (AR FSEIS-4:25-27). Snowmobile use along this road corridor in the Snowcrest Management Area is in the Gravelly landscape where winter motorized allocations were reduced by over 143,000 acres in the 2009 Forest Plan decision (AR FSEIS-4:25).
3. The 2009 Forest Plan decision minimized conflicts between off-road vehicle use and other recreational uses by confining traffic to this route. There are no known conflicts, accidents, or injuries associated with winter use on Road #056. (AR FSEIS-4:27).
4. This road is not located in an officially designated Wilderness Area or primitive area, but is surrounded by a Recommended Wilderness designation.

Consideration of the SEIS and Public Comment:

In making my determination as to whether a new Record of Decision (ROD) or a modification of the ROD for the Revised Forest Plan is needed, I considered both the SEIS and the public comments.

I considered the information disclosed in the FSEIS on the three routes designated in the Forest Plan as exceptions to winter, non-motorized area allocations. These routes total less than 14 miles.

It is evident to me that application of the "minimization criteria" took place in the development of the Revised Forest Plan allocations. All of the areas where these three roads/trails exist were open for snowmobiling in the 1986/7 Forest Plans. The disclosure of then Regional Forester Tidwell's tradeoffs in making the recreation allocation decisions is described in depth on pages 14-15 of the 2009 Revised Forest Plan ROD. Clearly, he was focused on providing appropriate recreation opportunities while protecting forest resources. As detailed in the SEIS route specific analysis, these 13.5 miles of snowmobile trail overlay existing forest roads and trails. Specifically:

- "The 5.2 mile Thunderbolt Creek segment was retained as an exception to the area winter motorized closure because it was key to providing this continued loop opportunity. The route provides a backcountry snowmobile experience not available for the remainder of the routes in the Boulder River landscape, since they are largely located on main roads. The route has been an open winter motorized route and in use for more than 35 years prior to the 2009 Forest Plan (FEIS, pg. 647 and 917)" (AR FSEIS-4:4-5).
- "... Road #056 includes approximately 3.8 miles of road designated as a winter motorized exception on the BDNF. The entire road is located along the Continental Divide which forms the border between Montana and Idaho near Island Park, Idaho. . . Road #056 begins and ends in Idaho. Areas of the BDNF adjacent to this route used to be open to snowmobiling. Presently, this route simply provides a connection between areas open to winter motorized use on the adjacent Caribou-Targhee National Forest." (AR FSEIS-4:13). "Winter motorized use in the entire Antelope Basin MA was allowed prior to the Forest Plan Revision, as was motorized use of this road" (AR FSEIS-4:15).
- "The 4.5 mile Antone Road is open to motorized uses in the winter to provide access to the Antone Recreation Rental Cabin. Winter motorized use of the area has always been low, due to limited access and distance from a plowed parking area. Winter motorized use in the basin surrounding the Antone Cabin was allowed prior to the Forest Plan, as was use of this road" (AR FSEIS-4:23).

Clearly, motorized use was minimized to reduce conflicts with other resources in developing the 2009 Revised Forest Plan decision and no new or modified decision is needed. This determination is not a decision to approve, amend, or revise the Forest Plan and is therefore, not subject to further administrative review.

for 
FAYE L. KRUEGER
Regional Forester
Northern Region

11/14/12

Date